IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 1504 of 1999

DATE OF DECISION: November 29, 2006.

M/s Indofil Chemicals Co.

.....Petititioner

Vs.

State of Punjab through Insecticide Inspector,

.....Respondent.

PRESENT:Mr.S.R.Verma, Advocate for petitioners.
Mr.G.S.Bhandari, Deputy Advocate General, Punjab
for respondent.

JUDGMENT

M.M.Aggarwal, J.

This is a petition for setting aside the order dated 15.9.1999 of CJM Mansa, whereby request of the present petitioner for discharge had been declined.

Present petitioner happens to be a Manufacturer.

As per complaint (copy Annexure P-4) filed by the State through Gurjant Singh Insecticide Inspector for offence under 3(k)(1),17,18,29 and 33 of Insecticide Act 1968 and Rule 27(5) of Insecticide Rules 197, sample of Diathene M-45 was taken from sealed container from the Healthy Crop Mansa. It was found to be sub-standard. The complaint shows that present petitioner had been sued as Manufacturer.

Counsel for the petitioner points out from copy of sanction (copy Annexure P-3) that there was no proper sanction under Section 31 (1) of the Insecticide Act, 1968. It was argued that it was not mentioned in the sanction

that the Analyst report had been seen by the sanctioning authority or as to who was the manufacturer or who was the distributor. It was just a cyclostyled paper on which columns had been filled up. Counsel for the petitioner had relied on judgments reported as **Birbal Vs. State of Punjab 1993(1) RCR 687 and M/s Dhamija Sales Corporation Vs. State of Punjab 1997(4) RCR (Crl.) 179** in which it had been held that such sanction cannot be called valid and Manufacturer cannot be prosecuted. It was further argued that it was necessary for the competent authority to record reasons as to why launching of prosecution against the offender was necessary in public interest and that was also not done . In this connection, he had relied on **Gahininnath Bhimrao Patekar Vs. State of Maharashtra and another 1987(1) PFAC 95 .**

From perusal of sanction copy Annexure P-3, it would come out that although the sanctioning authority had written that he was satisfied after perusing the record produced before him but name of the dealer is mentioned in the cyclostyled form and columns filled in and in the end the name of Dealer and then of the present petitioner is mentioned as manufacturer but neither it is written nor mentioned as to what were the articles of which sample was drawn and how that article was misbranded and then the offences were committed.

Under these circumstances, it is held that sanction to prosecute the present petitioner was not valid. This petition is accepted. Impugned order is set aside and petitioner shall stand discharged.

(M.M.Aggarwal)
Judge

November 29, 2006
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